# The Decision Dilemma

## Academic Freedom in the Age of Monsanto

*Diana Taylor*



Orson Welles's 1938 radio broadcast, "War of the Worlds," terrified his audience.[1] He pretended to be a newscaster giving live bulletins about an invasion from Mars. He found it shocking, he said afterwards, that listeners would believe in Martians.[2] Should there be a law, a critic asked him, against such enactments? And what would that legislation be? Sophie Calle, a French artist, dressed up in a wig and stalked a stranger photographing even the most banal aspects of his existence (*Suite Venitienne*, 1980). In 1981, she pretended to be a maid to enter hotel rooms and photograph strangers' belongings. At least one of her subjects sued her for invasion of privacy (*New Yorker* 2012). Reverend Billy of the Church of Stop Shopping has been arrested repeatedly throughout the United States for reciting the First Amendment and exorcising cash registers. Bill Talen, a.k.a. Reverend Billy, is an actor pretending to be an evangelical preacher to take on corporate interests.

1. An earlier and much shorter version of this piece appeared in my book, *Performance* (Taylor 2016). A slightly different version of this essay will appear in *A Cultural History of Law in the Modern Age,* edited by Richard Sherwin and Danielle Celermajer (Bloomsbury, 2017).

2. George Orson Welles apologized for his *War of the Worlds* broadcast on 31 October 1938 (CriticalPast 2014).


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Are these artworks "true" or "false"? Is their intent to deceive or harm their subjects or their audiences? Or do these artists intend to make visible deep-seated assumptions (about national paranoia, privacy, and savage capitalism) that go unexamined? Do we agree on what the artists intend to achieve? Who is the authority? Does "freedom of speech" trump accusations against "false" even malicious speech?[3] Who gets to decide? The judge? The art world? A legal definition of "agreement" as "specify[ing] the minimum acceptable standard of performance" only further complicates the issue.[4] It's a genuine challenge to define performance.[5]

What I am probing is *impersonation* as a practice of masquerading that troubles the boundaries between "performance" and the "law." While it may be fine to pretend to be a police officer onstage, it's against the law to do so in "real" life. Impersonation encompasses both theatrical and fraudulent behaviors—everything from theatrical acting to dubious cons to criminal acts. Performance and theatre, by definition, enact identities, critical positions, situations, and emotions that do not coincide with the actor's. "There is a gap at the heart of the mimetic continuity" as Jacques Rancière put it (2009:62). Audiences recognize and participate in the "gap," the as-if-ness, or the deception. As Samuel Coleridge put it in 1817, people willingly participate in the "suspension of disbelief" when the story is infused with "human interest and a semblance of truth" (2009:239). The law, however, has trouble with "semblance" and is often based on "agreements," defined as "a meeting of minds with the understanding and acceptance of reciprocal legal rights and duties as to particular actions or obligations, which the parties intend to exchange; a mutual assent to do or refrain from doing something; a contract."[6] However, terms such as *meeting of minds* and *intent* and *assent* might well be fictions suggesting that people clearly understand what they are agreeing to.[7] What do impersonations intend to do? What do people assent to when participating in them? Some of the most effective political performances in the 20th and 21st centuries (to focus on more contemporary examples) risk legal censure to mine the delightfully slippery terrain of impersonation.

The usual definitions of impersonation cite the intention to deceive, to profit, or to harm behind the act that makes it a criminal offense. The issue is actually not that straightforward. Theatre aims to deceive and reaps financial benefits at the box office from doing so. People

3. Legal Information Institute, Cornell Law School, s.v. "libel," accessed 29 March 2016, www.law.cornell.edu/wex/libel.

4. BusinessDictionary.com, s.v. "agreement," accessed 29 March 2016. www.businessdictionary.com/definition/agreement.html.

5. I outline the many challenges of defining performance in my book *Performance* (2016).

6. Legal Dictionary in the *Free Dictionary*, s.v. "agreement," accessed 29 March 2016, http://legaldictionary.thefreedictionary.com/agreement.

7. Clearly there are some attempts at definition coming from the legal system, such as the "Definitions; generally" section of the U.S. Code 21/321. https://www.law.cornell.edu/uscode/text/21/321. Nonetheless many terms, such as "hate speech" and "hate crimes" remain elusive.

*Figure 1. (facing page) The performance of* Sin Maíz No Hay Vida *ended at the* zócalo *in San Cristóbal de las Casas for a volleyball game between Monsanto and the People of Corn.* Sin Maíz No Hay Vida*, 2013, Chiapas, Mexico. (Photo by Lorie Novak)*

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going to the theatre, however, know they will be deceived; they participate in and enjoy the deception. Yet certain performances might well start before the audience realizes it. A Chicano director, Daniel Martinez, staged his play, *Ignore the Dents* (1990), in the old Million Dollar Theater in a rundown part of downtown Los Angeles. The well-off theatre-going audience had to stand in line in front of the people who lived on the streets. The homeless folks looked on at the audience with great curiosity. The theatregoers did not know that the performance was about them until they walked inside the theatre and saw projections of audience members coming in from the street and from the lobby (see Marrero 1994:111). The Brazilian theatre director, Augusto Boal, developed "invisible theatre." Two actors, pretending to be ordinary citizens, stood at a bus stop and started an argument about the ongoing war. Was war justifiable? Soon a group of people started to congregate and join in the argument.

So when is impersonation unlawful? According to the online Legal Dictionary section of the *Free Dictionary*, impersonation is by definition a crime: "The crime of false impersonation is defined by federal statutes and by state statutes that differ from jurisdiction to jurisdiction."[8] The tautological definition again reflects the lack of agreement on what impersonation means. Impersonation is always "false" if by false we mean the pretend nature of taking on a person or role that does not coincide with the actor's. Does the definition confuse impersonation with fraud, as if every act of impersonation were fraudulent? Under federal law (18 US Code 912) those pretending to act as a US officer or employee "as such, or in such pretended character demands or obtains any money, paper, document, or thing of value, shall be fined under this title or imprisoned not more than three years, or both."[9] Under the New York penal code, 190.25, criminal impersonation applies to those impersonating police officers or physicians while subsections 1 and 2 classify as a misdemeanor an act whereby a person "pretends to be a representative of some person or organization and does an act in such pretended capacity with intent to obtain a benefit or to injure or defraud another."[10] What about a political performance that parodies a corporate website?

In what follows, I want to describe a specific instance in which an activist performance I was involved with impersonated Monsanto. This example enables me to examine the ambiguity inherent in impersonation and what it means to impersonate a corporation. Etymologically linked to *corporare*, Latin for embody, the word came to refer to a "legally authorized entity" in the 1620s.[11] Corporations have had "bodies" and been considered "persons" for a long time, expanding the temporal frame of what we normally understand as "durational performance." Pretending to be that body or person, however, can have adverse effects. Here, then, I examine the ways in which impersonation led to conundrums about which kinds of impersonation are naturalized and which are found to trouble the limits of the law.

Over the years, the Hemispheric Institute of Performance and Politics, which I founded and direct, has offered a number of courses on Art and Resistance in Chiapas, Mexico. Hemi, located at New York University, offers graduate level courses through the department of performance studies, where I teach, and accepts students from NYU and from universities throughout the Americas. In 2013, as in other years, the goal of the course was to create an immersive,

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8. Legal Dictionary in the *Free Dictionary*, s.v. "impersonation," accessed 29 March 2016, http://legal-dictionary.thefreedictionary.com/Impersonation.

9. Legal Information Institute, Cornell Law School, s.v. "21 U.S. Code § 321—Definitions; generally," accessed 29 March 2016, www.law.cornell.edu/uscode/text/18/912. "(June 25, 1948, ch. 645, 62 Stat. 742; Pub. L. 103-322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147)."

10. FindLaw, s.v. "New York Penal Law § 190.25 Criminal impersonation in the second degree," accessed 29 March 2016, http://codes.lp.findlaw.com/nycode/PEN/THREE/K/190/190.25#sthash.3YcoLANi.dpuf.

11. Online Etymology Dictionary, s.v. "corporation," accessed 29 March 2016, www.etymonline.com/index.php?term=corporation.




*Figure 2.* Sin Maíz No Hay Vida *activists begin their performance in San Cristóbal de las Casas, Chiapas, Mexico, 16 August 2013. (Photo by Lorie Novak)*

multilingual environment in which collaborative learning could take place through *doing* as well as through traditional text and discussion-based seminars. In addition to researching the topic of resistance as a series of acts—from armed resistance to civil disobedience, revolt, refusal, protest, foot-dragging, and so on—we always offer a workshop that ends in a public performance directed by Mexico's foremost performance artist and activist, Jesusa Rodríguez.

This was the third time Rodríguez and I had taught the course, although we always changed the topic. That year we focused on the health, social, and economic problems caused by genetically modified corn. Monsanto had asked permission from SAGARPA, the Mexican Secretariat of Agriculture, to plant genetically modified (GM) corn commercially in Mexico. They had planted it experimentally since 2009. Although there had been a moratorium on planting GM corn issued by Mexico's National Biosecurity Commission in 1998, President Felipe Calderón lifted it in 2009 after a meeting with Monsanto.[12] Activists throughout Mexico were mobilized to intervene against further invasion of GM corn. Genetically modified organisms (GMOs), they agree, impoverish local farmers and pose serious health dangers. They also threaten the diversity of the crop, the environment, and the cultures that developed in connection to agricultural practices. Monsanto, like other corporations, funds scholars to contest the evidence against them. Its goal is not to prove that GMOs are safe or beneficial to society, but to create enough doubt in people's minds so that safety and economic issues become a matter of opinion rather than a matter of fact.[13] Mesoamericans have been developing corn for the past 10 thousand

12. For more on this see "Restrictions on Genetically Modified Organisms: Mexico" (Guerra 2014).

13. See the pro-GMO report, "GM crops: global social-economic and environmental impacts, 1996–2011" by Graham Brookes and Peter Barfoot, who acknowledge that the study was partially funded by Monsanto (Brookes and Barfoot 2013). There are many more, but it's important to note that Monsanto funds research, endows chairs, and interferes with research at top universities in the United States (Cornucopia Institute 2012). This funding of



*Figure 3. Monsanto and Motherland.* Sin Maíz No Hay Vida*, 2013, Chiapas, Mexico. (Photo by Lorie Novak)*



*Figure 4. The performance ended at the zócalo in San Cristóbal de las Casas for a volleyball game between Monsanto and the People of Corn. Jesusa Rodríguez explains the rules of the game.* Sin Maíz No Hay Vida*, 2013, Chiapas, Mexico. (Photo by Lorie Novak)*

years. They think of themselves, by extension, as the "people of corn." Hundreds of countries have condemned planting GM crops, and understand them as especially threatening to countries of origin, those places where the crops were first grown and developed.[14]

In July 2013, as usual, the 35 participants from throughout the Americas (and beyond) staged a fabulous street performance *Sin Maíz No Hay Vida* (Without Corn, There's No Life) combating big bad Monsanto. As is typical of both theatrical and legal fictions, the mammoth agricultural complex was reduced to one representable character, Monsanto. For us, big bad Monsanto wore a tuxedo, a top hat, and a pig's face. On his arm, a glorious drag performer dressed in a variation of the national flag pranced around as the adoring Motherland, eager to pick up the pennies that fell from Monsanto's wallet. The performer could not wear the actual flag as that is against the law in Mexico. The People of Corn, the good guys in the performance, were covered in beautiful body-paint, and sang and danced to the God of Corn. The performance moved towards the *zócalo* (the central square) of San Cristóbal, gathering more spectators as it moved along. The performance ended

US universities is common practice, as is the revolving door policy whereby officials from corporations serve as administrators at universities and vice versa. In *Merchants of Doubt*, Naomi Oreskes and Erik M. Conway explain how the tobacco industry kept regulation at bay, and customers hooked, long after it was known that smoking causes cancers, by hiring scientists to produce doubt and muddy the picture. Oreskes says the same has been done by Exxon in the climate debate catastrophe (Oreskes 2015). This has happened with other industries as well.

14. The Convention on Biological Diversity (CBD) "adopted in 1992, the 190 ratifying countries agreed on the importance of establishing adequate safety measures for the environment and human health to address the possible risks posed by GMOs (genetically modified organisms). Intense negotiations started in 1995 and resulted in the adoption of the final text of the Cartagena Protocol on Biosafety (thereafter referred to as the Biosafety Protocol or BSP) in 2000" (Greenpeace 2004).

with a public volleyball game in front of the town's main cathedral between Monsanto's evildoers and the People of Corn. Everyone was invited to participate on either side, though almost everyone took the side of the People of Corn. A young Mayan girl threw the ball that defeated the Monsanto team, to great applause and shouts of joy. The group carried the beaming girl on their shoulders in triumph.

As in past years, we had invited artists, scholars, and activists to participate in the course. Lorie Novak, a photographer and professor in the Department of Photo and Imaging at NYU, joined us for the second time. Jacques Servin of the Yes Men, who was a visiting professor in the Department of Performance Studies, also participated. Servin and Igor Vamos (who go by the names of Andy Bichlbaum and Mike Bonanno, respectively, as the Yes Men) are artivists who parody powerful corporate leaders and spokesmen through what they call *identity correction*, that is, "impersonating big-time criminals in order to publicly humiliate them, and otherwise giving journalists excuses to cover important issues" (Yes Men n.d.). So while the Yes Men use the media, they do not target the media. Rather, as they say, they give journalists the excuse to talk about serious and ongoing issues that do not necessarily qualify as newsworthy.

Servin (as Bichlbaum) writes in *Beautiful Trouble*:

> When trying to understand how a machine works, it helps to expose its guts. The same can be said of powerful people or corporations who enrich themselves at the expense of everyone else. By catching powerful entities off-guard—say, by speaking on their behalf about wonderful things they should do (but in reality won't)—you can momentarily expose them to public scrutiny. In this way, everyone gets to see how they work and can figure out how better to oppose them. This is identity correction [...] Instead of speaking truth to power, as the Quakers suggest, you assume the mask of power to speak a little lie that tells a greater truth. (Bichlbaum 2012:60)

Since 1999, the Yes Men have been getting into all sorts of mischief, impersonating a spokesperson from Dow Chemical on the BBC NewsHour, another time one from Halliburton, yet another claiming to be from the US Chamber of Commerce in a live forum, and so on. During these impersonations, the two often build false hope that companies will finally do the right thing—compensate the victims of the Bhopal disaster in Dow's case (see razorfoundation 2007), or support environmental legislation in the case of the US Chamber of Commerce (Yes Men 2012). When the organizations rush to declare that in fact the announcements are a hoax, that they have no intention of doing the right thing, they fall into what is known as a "decision dilemma"—the "damned if you do and damned if you don't" gold standard for activists. The "target" looks ridiculous no matter what it does.

Typically, a Yes Men action starts with a fake website. Bichlbaum and Bonanno create sites that are nearly identical to their targets' sites and simply change the url slightly. Their fake Dow Chemical site drew some criticism from Dow, but nothing else. When the BBC was looking for a Dow Chemical representative to speak to the 20th anniversary of the Bhopal disaster, they found Jude Finisterra (the saint of lost causes positioned at the end of the world) happy to comply. On the air, Finisterra was all concern and thoughtfulness, the very picture of the well-meaning executive. At moments, he looked slightly baffled and even silly, as Servin often does with his various personas (razorfoundation 2007). The complexity of it all often throws his characters slightly off kilter, giving them a somewhat lost feel. The film *The Yes Men Fix the World* (2009) shows a very nervous Servin almost running out of the BBC studios before he gets caught as the stock prices of Dow in Europe drop precipitously. Dow was too savvy to sue the Yes Men, but they did send "spies," as Servin has referred to them in conversation with me, to keep track of their doings.[15]

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15. *Wikipedia,* s.v. "The Yes Men": "In February 2012, it was widely reported in the 2012 Stratfor email leak that Dow Chemical Company hired private intelligence firm Stratfor to monitor the Yes Men," accessed 2 March




*Figure 5. Jacques Servin as Jude Finnesterra, impersonating a spokesperson from Dow Chemical in a televised interview on the BBC Newshour. (From razorfoundation 2007; screengrab courtesy of Jacques Servin)*

The US Chamber of Commerce, on the other hand, demonstrated less caution. It was so incensed at the Yes Men fake site that they issued a takedown notice in 2009 demanding they take down the "infringing material" (Kelly 2009). The Electronic Frontier Foundation (EFF), defending the Yes Men, argued that the "Parodic Site is obviously designed for purposes of criticism and comment and protected by the fair use doctrine" (Zimmerman 2009).[16]

As with the Dow case, the Yes Men decided to impersonate a Chamber spokesperson to push the hoax further. In 2010, Bichlbaum gave a press conference pretending to be a representative of the US Chamber of Commerce, announcing the Chamber had reversed its plans to derail responsible Congressional legislation on climate change.[17] The Chamber, which presents itself *as if* it were a government agency, sued the Yes Men for "fraudulent acts [...that] deceived the press and the public and caused injury to the Chamber." "These acts" the Complaint continued, "are nothing less than commercial identity theft masquerading as social activism" (Chamber of Commerce 2009). The Chamber insisted that these "conducts" are "destructive of public discourse" because they "disguise the true motives of the persons who took that property." The defendants, Servin and Vamos, the lawsuit states, are "engaged in a business [they] call 'identity correction' [...]." The Complaint repeats that the acts were fraud, not "hoaxes," used to promote the Yes Men's films and increase the sale of T-shirts. The Chamber's Complaint quotes Servin as telling the *New York Times*: "We're comedians, basically. It's all theater" (Chamber of Commerce 2009). As the lawsuit dragged on and on, the Chamber finally gave up its suit. The Yes Men then sued them back, for dropping the suit. The legal framework ironically enabled the Yes Men to develop even more theatre. "Sometimes it takes a lie to expose the truth," the Yes Men say. All the brouhaha provoked by the hoaxes proved invaluable in keeping the companies' wrongdoings in the public eye.

Impersonating corporations leads to a funhouse world of mirroring and masking that troubles perception, making it look as if power always resides elsewhere, impossible to locate. Corporations are hard to pin down. They may buy and brand real estate but their interests lie elsewhere. Bureaucrats wear suits and ties to incarnate financial interests of the mega rich who hide behind corporate labels. Ventriloquists reiterate faux facts, little lies, and big lies that emanate from who knows where. Meanwhile actors are called "fakes."

In 2013, when Servin was with us in Chiapas, activists were anxiously waiting for the news of whether SAGARPA would grant Monsanto's bid to plant GM corn commercially. Jesusa

2016, https://en.wikipedia.org/wiki/The_Yes_Men#Dow_Chemical. The source for this is listed as a *Times of India* story: "Stratfor was Dow's Bhopal spy: WikiLeaks" (TNN & Agencies 2012).

16. In *Campbell v Acuff-Rose Music Inc.,* the Supreme Court recognized parody to be fair use, even when it is done for profit (Zimmerman 2009).

17. The Yes Men's newest film, *The Yes Men Are Revolting*, shows their impersonation of the Chamber of Commerce and its aftermath. For the Chamber of Commerce excerpt see The Yes Men (2012).

Rodríguez communicated with activists from throughout the country, coordinating events and efforts to intercede. For years she had led nationwide protests through her *Resistencia Creativa* project that inform Mexicans about the dangers posed by GMOs. As we sat drinking a beer in the Zapatista restaurant on Real de Guadalupe, an upscale pedestrians-only street in San Cristóbal de las Casas, the idea came to us: we would create a Yes Men action against Monsanto. Some local activists and some participants in the class wanted to join in. In a few days we had prepared our digital action. In true Yes Men fashion, we launched a fake website claiming to be Monsanto's. Our press release, on the fake Monsanto website, announced that the request had been granted by SAGARPA and thanked all those people in government for their invaluable help in moving Monsanto's interests along to fruition. We, of course, thanked them by name and cc'd them in our communiqué.

> MEXICO CITY (Aug 14, 2013): The planting of genetically modified (GM) cornfields on a large commercial scale has been approved by the Mexican Secretariat of Agriculture (SAGARPA). The permit allows the planting of 250,000 hectares of three varieties of GM corn (MON-89034-3, MON-00603-6 and MON-88017-3) in the states of Chihuahua, Coahuila and Durango. This is the first time GM corn will have been planted on a large commercial scale in Mexico. (Yes Lab 2013a)

Our press release went on to add that Monsanto, aware that critics would decry the threat to the diversity of corn in Mexico, contaminated or displaced by the GM crops, would enact certain measures. "One such initiative is the National Seed Vault (Bóveda Nacional de Semillas, BNS), whose charter is to safeguard the 246 native Mexican corn strains from ever being fully lost." The "fully" lost, we felt, was a nice touch. Researchers and celebrity chefs could come and examine the native seeds in the vault.

Another initiative, we claimed, was the creation of the "Codex Mexico (Codice México), a digital archive preserving the vast wealth of Mexican culture for centuries to come." The 500-year-old *amatl* (bark) manuscripts that contain much of what we know about preconquest Mexico are called "codexes." Our "'Codex México is a visionary initiative that will allow future generations of children to know far more about our lives today than we know of our pre-Columbian ancestors,' noted forensic anthropologist Marcelo Rodríguez Gutiérrez. 'Never again will the wealth of this region's culture be lost as social conditions change.'" This new conquest, we suggested, would be kinder and less devastating than the last. To illustrate the contribution of the Codex, Lorie Novak included corny photographs and empty captions: "A colorful display of corn in a shop" (Yes Lab 2013b).

Monsanto, faced with the decision dilemma of responding to or ignoring the prank, did not take long to respond. Within 20 minutes they had us on the phone, using a number we had provided for journalists, demanding that we take our hoax site down. They insisted we issue a retraction immediately. We agreed, of course. Another press release, again seemingly from Monsanto, "denounced




*Figure 6. The decision dilemma: Monsanto did not take long to respond. Before Jacques and I had finished our celebratory margarita, they had us on the phone demanding that we take our hoax site down. (Photo by Lorie Novak)*

the release as a hoax, crediting a group of students and activists called *Sin Maíz No Hay Vida* (Without Corn There Is No Life)."[18] There we fully explained what Monsanto was up to. The "reveal," the Yes Men's revelation of the hoax, always happens within 24 hours of the act, if it hasn't been uncovered before. The lie may be useful in illuminating a larger egregious act, but it is not allowed to stand.[19] A few news outlets knew that both our press release and our denouncement were a prank—no one familiar with Monsanto's strategies could believe that the corporation would issue such declarations—but they took advantage of the excuse to throw light on the corruption shrouding Monsanto and SAGARPA. Given the widespread activism around the GMO issue, we were leaked a confidential email that Monsanto had just sent to SAGARPA, apologizing for the confusion that our announcements had caused and promising to get things under control (Yes Lab 2013c). Monsanto reiterated the need for confidentiality. Monsanto, imposters too, had to perform their role as responsible and efficacious collaborators for the authorities. We of course published that too.

On 13 September 2013, Monsanto contacted the president of NYU to complain about the street and digital action. They wanted to know about the course, see the syllabus, and understand the relationship of the actions to NYU. They demanded an apology from NYU.

This created a new drama, one that dominated our fall semester 2013 at NYU. This drama was complex. In Victor Turner's language of social drama, it could be characterized as a *breach* or rupture caused by a transgressive act (launching the fake website?), a *crisis* (which spanned the fall semester), the *reparative* acts (involving Monsanto lawyers, NYU, and myself), and the *resolution* (hopefully to come) (Turner 1982:10). The series of acts that comprised the drama shifted between overt and covert, play and "dark play" in Richard Schechner's words (1993:27). Play, like the law perhaps, is usually regulated by rules and agreements, but it was not quite clear during that time what we all thought we were agreeing to. Had we even agreed to agree? More in the realm of dark play, we did not know who all were playing. The law structured its performance of authority and consensus, agreeing that we were in violation. We defended different rules based on freedom of speech that included the right to parody and critique.

In several ways, Monsanto started to appear as a "person" and "persona" invested with personality before my eyes. "Persona" in classical Greek theatre, is literally the mask through which the actor speaks the words. No one ever saw the face of the being that uttered the words, only the mask or persona transmitting them. Monsanto's spokespeople were literally mouthpieces, ventriloquists conveying language. I never knew who, if anybody, was behind the mask. The mask of Monsanto removed the "object from our grasp" to paraphrase Brecht (1964:192). But contrary to Brecht's "alienation effect" that builds on dialectical materialism "to unearth society's laws of motion [...and] treats social situations as processes, and traces out all their inconsistencies," this form of alienation made the powers more inaccessible and potent, unlocatable yet ubiquitous (193). Monsanto's spokespeople impersonated and embodied a corporation (*corporare*) that itself impersonated being a "person."

On a different level, Monsanto seemed to be a "person" with feelings. It (he? she?) claimed to have been hurt, embarrassed, and needed an apology. Corporations legally count as "persons" after all; they have rights and, apparently, they have emotions. "Monsanto" had complained to NYU. Who *is* Monsanto and whom did he/she/it complain to? Where were the people behind these masks? That legal fiction functions as its own form of impersonation. The fiction of the corporation as a person was, it seems, an acceptable and permissible impersonation, while impersonating a corporate impersonation was not.

18. See the Yes Lab website (yeslab.org) for a full description of the digital action (Yes Lab and Sin Maíz No Hay Vida 2013).

19. The Yes Men do not seek to perpetuate a lie, as opposed to the case in which a man lied about receiving the Medal of Honor (LII 2012). The point, rather, is to reveal the lie perpetrated on the public by corporations such as Dow Chemical and Monsanto.



*Figure 7. The Mayan girl who threw the ball that defeated the Monsanto team.* Sin Maíz No Hay Vida*, 2013, Chiapas, Mexico. (Photo by Lorie Novak)*

NYU lawyers repeatedly questioned Servin and me. Phrases such as "code of ethics," "academic freedom," and "conflict of interest" came up. Apparently, our action had placed us on the wrong side of each.

We stressed that the digital action had nothing to do with NYU. It was not on the syllabus or part of the course. We forwarded the materials, syllabus included, requested by Monsanto. NYU, we reiterated, had no reason to issue an apology.

We had a few questions of our own for Monsanto. What did Monsanto object to—the *Sin Maíz No Hay Vida* street action or the digital action? Is impersonation on the street different from impersonation online? It could not be that simple. We had impersonated Monsanto before, in a 2010 street action comparing the insatiable agribusiness to the insatiable mouth of Tlaltecuhtli, the Aztec god/dess of the Earth who devours her creations. It would seem that embodied actions did not resonate much. However, Servin *had* been sued for impersonating a Chamber of Commerce representative in the flesh. The difference, Servin and I concluded, was not about the online/offline nature of the impersonation but about the reach of the prank.

We also wanted to know how our action had harmed Monsanto. After all, it was just play. A performance such as the street action can be considered a form of representation. Monsanto in a pig's mask was a representation. A performative, on the other hand, can be considered a speech act, a form of incitement (see Austin 1962; Butler 1997). We, like Yes Men before, claimed ours was intended as an art project—a performance rather than a performative. And arguably, if readers had actually believed the fake website, it might be said that we were trying to make Monsanto look good, as if it cared about bio- and cultural diversity.

As for our purported violations we also had questions for NYU. "Conflict of interest? Really?" I asked, looking at an officer from NYU who had herself enjoyed an important

position at Monsanto. She straightened herself up uncomfortably in her chair and scratched the accusation off her list of our infractions.

Violation of an ethical code? Define ethics. Polluting the environment, destroying local economies, and harming humans? Which violations matter and which do not? The law, apparently, legitimates certain performances, turning away from the harms they permit, and negatively sanctions others on the basis of a harm they are said to cause, as an anonymous reader of this essay suggested.

Monsanto, moreover, had seemingly infinite resources and strategies to counter any critiques or evidence of wrongdoing against them. All we (professors) had to shield us was academic freedom.[20] As I put in an email to members of the administration who continued to question if my actions were covered by academic freedom: "For me, as a performance studies scholar, the hoax and writing and acting are all ways to express ourselves in the face of enormous corporate interests that do very real harm" (Taylor 2013).

Nonetheless, the logic seemed paradoxical: if my use of a hoax were part of an NYU course, it would be covered by academic freedom. If it were not covered because it took place outside the limits of my institutional commitments, then why would NYU have to weigh in? Again, there's no clear agreement of what academic freedom might mean and what it covers. Harvey A. Silvergate, David French, and Greg Lukianoff define it in *FIRE's Guide to Free Speech on Campus* "as a general recognition that the academy must be free to research, teach, and debate ideas without censorship or outside interference" (2012:127). Following that definition, those who study and teach in the academy must be able to pursue knowledge without corporations impeding and subverting academic work. Monsanto and other corporations as well as military entities fund research at all of our universities. There is a rotating door hiring process between these industries and universities, as the role of my ex-Monsanto, now current administrative officer makes clear. These businesses influence what areas of inquiry are important, prioritized, and funded. And yet I am not allowed to critique them? Is that academic freedom?

After many back-and-forths, it seemed that the street action, which was officially related to the course, did not really bother Monsanto. I gathered from the NYU lawyers that a few bodies on the street in Chiapas did not worry the corporation. While the actor wore a pig's mask to impersonate Monsanto, no one actually believed it was Monsanto—it was a performance; the joke was clear. An internet action, on the other hand, reached a far broader audience (including the people who were considering granting permission to Monsanto). It might be argued that people for a short period of time actually thought the fake announcement came from Monsanto and got them activated—thus it was a performative—language that acts, that makes something happen. In any case, that level of exposure was no laughing matter and Monsanto was taking it very seriously indeed, operating behind closed doors as usual to intimidate their critics.

As the fall semester wore on, it seemed that Monsanto no longer insisted on a formal public apology from NYU. A confidential apology, available only to "persons who need to know," as an email put it, would be sufficient. As before, I argued strongly against this, stating that Monsanto would use the (confidential) apology to justify itself and discredit critique before Mexican lawmakers.

Civil liberties lawyers argue that the ambiguity around the legal understandings of impersonation could clamp down on free speech. Matt Zimmerman, the lawyer with the Electronic Frontier Foundation who defended the Yes Men from the Chamber of Commerce, notes, "the

20. *FIRE's Guide to Free Speech on Campus* includes a chapter on academic freedom, which it defines as "a general recognition that the academy must be free to research, teach, and debate ideas without censorship or outside interference [...]." It notes that "however fuzzy its definition or uncertain its actual legal application [it] is still a powerful concept, crucial to our understanding of the university as a true marketplace of ideas" (Silvergate, French, Lukianoff 2012:1510).

concern is it gives a lot of discretion to law enforcement to go after First Amendment activity [...] The resulting consequence of that is that people will feel chilled and intimidated and hence decide to not engage in perfectly legitimate forms of social protest because they're worried that not only might they be sued, but they could actually go to jail" (in Luckerson 2013). Political speech, is after all, what the First Amendment goes to great lengths to protect, according to Christopher Dunn of the New York Civil Liberties Union: "Political, religious and other speech often is intended to be annoying. But that is precisely the type of speech the First Amendment was designed to protect" (Leland 2014).

In October 2013, a Mexico City judge, Marroquin Zaleta, issued a temporary halt that prohibited SAGARPA from granting Monsanto permission to plant GM corn in Mexico, either on an experimental, pilot, or commercial basis (Spector 2013).[21] A December 2013 ruling upheld that position (Enciso 2013). Subsequent court rulings have prohibited the planting of GM corn in Central America. As of 25 August 2015 it has been illegal to plant GM corn in most of Mexico and Central America. But AgroBIO and other firms have lobbied to overturn Judge Marroquin Zaleta's 2013 ruling and are demanding he be taken off the case (see Quijones 2014). The struggles continue.

Did our digital action prove efficacious? Did we really derail or at least postpone Monsanto's plans? Although we would love to think so, this hoax was one of thousands of interventions that artists and activists constantly carry out to keep GMOs out of Mexico and other countries. We were happy to be among people who use their talents to keep bad things from (further) happening.

But the action did place many in a "decision dilemma." Would NYU tell Monsanto to go away, and reiterate that NYU had nothing to do with the digital action (my suggestion)? What would happen to Jesusa Rodríguez, to Jacques Servin, and to me? Would the Hemispheric Institute have to distance itself even further from direct actions such as this one?

As of this writing, the Hemi/NYU/Monsanto conundrum seems to have been resolved or, better, dropped. Monsanto, of course, is too smart to go after Yes Men. Monsanto "just" wanted a letter from NYU declaring our action unethical. They were even willing to accept a confidential letter, read by only a few key people. I could not find out if NYU ever issued the letter of apology.

Happily, in any case, we were history.

But I too had been caught up in identity correction. I told the NYU lawyer that I would write the incident up in an essay. "If they [Monsanto] come after me for that, I'll write more." But again, it's not that simple. I too have been forced to confront my mask of power and recognize how risk is unevenly distributed throughout society. Jesusa Rodríguez risks her life (which has been threatened more than once). Visiting and adjunct faculty face more risks of losing jobs than do tenured, full, and distinguished professors. Organizations such as the Hemispheric Institute also run risks of losing support and funding. In short, the prank had repercussions for all of us, in different ways.

Have I changed tactics in regard to truth and power?

YES MA'AM!![22]

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21. For more information about the situation in Mexico in regard to Monsanto, and the activists who are working to keep the transnational corporation out, see Semillas da vida (2013).

22. Thanks to Mary Notari, the original YES MA'AM, and Jacques Servin, for conferring this title on me. Professor Anurima Banerji and Grace McLaughlin have been nominated for a similar title, thanks to their suggestions for this essay.

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